

ESTTA Tracking number: **ESTTA386279**

Filing date: **01/01/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197569
Party	Defendant Telehouse International Corporation of Americamerica
Correspondence Address	Felix A. Gonzalez 9251 E. Snyder Road Tucson, AZ 85749 gonzalez@kddia.com
Submission	Answer
Filer's Name	Felix A. Gonzalez
Filer's e-mail	gonzalez@kddia.com
Signature	/Felix A. Gonzalez/
Date	01/01/2011
Attachments	ANSWER to Opposition # 91197569-WhiteHat Security-12-27-10.pdf (6 pages (32055 bytes)

WHITEHAT SECURITY, INC

 \mathbf{v}_i

Applicant,

ANSWER


1. On February 12, 2009, Applicant filed an application to register the trademark WEVSENTINEL, Serial No. 77/669,258, for Telecommunications consultation, and Computer consultation in the field of computer security; Information technology consultation; Information technology services, namely, consultation in

the field of assessing, correcting and managing computer network vulnerabilities; Computer services, namely, computer system administration of firewalls for others (the “Application”), and same was publicized on July 27, 2010.

2. On August 16, 2010, Opposer filed a ninety day Extension of Time to Oppose, Applicant’s trademark application for WEVSENTINEL, Serial No. 77/669,258, and said extension was allegedly granted up to and including November 24, 2010.
3. On November 24 2010, Opposer filed a Notice of Opposition, against Applicant’s application Serial No. 77/669,258, alleging that Applicant’s trademark WEVSENTINEL and services are virtually identical to Opposer’s SENTINEL trademark and services, as to be likely to cause confusion or to cause mistake or to deceive, thereby causing loss, damage and injury to Opposer.
4. The Applicant admits the allegations in paragraph no. 1 of the Notice of Opposition.
5. The Applicant denies the allegations in paragraph no. 2 of the Notice of Opposition, and leaves Opposer to his proofs of those allegations. Upon information and belief, Opposer’s SENTINEL mark is utilized solely to provide security protection for “website vulnerabilities,” such as networks, servers and web-based applications. On the other hand, Applicant uses the WEVSENTINEL mark to provide security protection services for just about any and all (“whatever”) security threats, including threats to applications, operating systems, emails, system availability, firewall protection, DDoS attacks, managed firewalls, IDS (intrusion detection system), IPS (intrusion prevention system), identity and access management, and policy and platform management. As such, Opposer’s

services, as they relate to its SENTINEL mark, are not the same as the services Applicant provides via its WEVSENTINEL mark.

6. The Applicant denies the allegations in paragraph no. 3 of the Notice of Opposition, and leaves Opposer to his proofs of those allegations. Nevertheless, Applicant hereby states that if it intended to utilize an acronym for “Website Application Vulnerability” it would of utilized the “WAV” acronym, which is exactly what it stands for. Contrary to what Opposer states, WEV is an acronym for “whatever,” as shown on the following acronym finder website (<http://www.acronymfinder.com/WEV.html>). So, that the actual intended interpretation of the WEVSENTINEL mark is “security protection for whatever (everything or anything)”. Therefore, the “WEV” portion of Applicant’s mark is “not” purely descriptive of Applicant’s related services, and as such WEVSENTINEL as a whole is distinctive. Therefore, the distinction between Opposer’s SENTINEL mark and Applicant’s WEVSENTINEL mark are quite apparent. The meaning of “whatever,” as shown on “thefreedictionary.com” website is as follows: (<http://www.thefreedictionary.com/Whatever>)

what·ev·er  (hwŏt-ĕv'ər, hwŭt-, wŏt-, wŭt-)

pron.

1. Everything or anything that: Do whatever you please.
2. What amount that; the whole of what: Whatever is left over is yours.
3. No matter what: Whatever happens, we'll meet here tonight.
4. Which thing or things; what: Whatever does he mean?

5. Informal What remains and need not be mentioned; what have you: Please bring something to the party-pretzels, crackers, whatever.

adj.

1. Of any number or kind; any: Whatever requests you make will be granted.

2. All of; the whole of: She applied whatever strength she had left to the task.

3. Of any kind at all: No campers whatever may use the lake before noon.

Hence, Applicant uses the WEVSENTINEL mark to provide security protection services for just about any and all (“whatever”) security threats, including threats to applications, operating systems, emails, system availability, firewall protection, DDoS attacks, managed firewalls, IDS (intrusion detection system), IPS (intrusion prevention system), identity and access management, policy and platform management, and we will continue to add to these services from time to time.

7. The Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph no. 4 of the Notice of Opposition, and leaves Opposer to his proofs of those allegations. Furthermore, Applicant disputes part of said allegations, and states that Opposer’s SENTINEL mark is not similar to Applicant’s WEVSENTINEL trademark, and in fact upon information and belief, Opposer’s trademark, if any, appears to be “WHITEHAT SENTINEL”, as that is how it seems to appear in almost all instances that Opposer utilizes the term SENTINEL, as demonstrated on Opposer’s website (<http://www.whitehatsec.com/home/services/services.html>). As such it is not likely that Applicant’s WEVSENTINEL mark will be confused and/or mistaken for Opposer’s alleged SENTINEL and/or WHITEHAT SENTINEL marks. In

addition, in no instance does Opposer utilizes its SENTINEL and/or WHITEHAT SENTINEL marks in conjunction with the “™” designation (for an unregistered trade mark, that is, a mark used to promote or brand goods) and/or predominantly displays same anywhere on its website, which in turn tends to show that neither WHITEHAT SENTINEL nor SENTINEL are actually being used as trademarks for the referenced services.

8. The Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph no. 5 of the Notice of Opposition, and leaves Opposer to his proofs of those allegations. Nevertheless, in response to Paragraph 5 of the Notice of Opposition, Applicant re-alleges and incorporates by reference its answers to Paragraph 2, 3, and 4 of the Notice of Opposition as though fully set forth herein.
9. The Applicant denies the allegations in paragraph no. 6 of the Notice of Opposition, and leaves Opposer to his proofs of those allegations. Furthermore, in response to Paragraph 6 of the Notice of Opposition, Applicant re-alleges and incorporates by reference its answers to Paragraph 2, 3, 4 and 5 of the Notice of Opposition as though fully set forth herein.

WHEREFORE, Applicant, by its undersigned attorney, prays that Applicant’s trademark application for WEVSENTINEL, Serial No. 77/669,258, be approved and its opposition thereto be dismissed, and that Applicant may have all such further relief as the Trademark Trial and Appeal Board deems necessary, equitable and just.

Respectfully submitted,

FELIX A. GONZALEZ

ATTORNEY AT LAW
General Counsel for Applicant

Dated: Tucson, Arizona
January 3, 2011

By: /Felix A. Gonzalez/
Felix A. Gonzalez
9251 E. Snyder Road
Tucson, Arizona 85749
Tel.: (520) 232-2514

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to the Notice of Opposition has been served on Opposer's Attorney, Stephen R. Garcia, by mailing said copy on January 3, 2011, via First Class Certified Mail, receipt confirmation, postage prepaid to: Fenwick & West LLP, at Silicon Valley Center, 801 California Street, Mountain View, CA 94041.

Dated: Tucson, Arizona
January 3, 2011

By: /Felix A. Gonzalez/
Felix A. Gonzalez
9251 E. Snyder Road
Tucson, Arizona 85749
Tel.: (520) 232-2514
Fax: (520) 407-6088